Annual Report on the Activities of the Rental Office

January 1-December 31, 2007

Submitted by
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Rental Officer

The Residential Tenancies Act

The Rental Office and the appointment of a Rental Officer came into effect in 1988 with the passage of the *Residential Tenancies Act*. The *Residential Tenancies Act* was intended to provide a more expeditious and less formal dispute resolution mechanism for residential landlords and tenants and was part of a general trend across Canada to establish tribunals to deal with residential tenancy matters. Prior to the passage of the *Residential Tenancies Act* all landlord-tenant disputes were heard by the Court. It was also intended to provide easy access to information on landlord and tenant rights and obligations. The Act gives the Rental Officer specific powers and duties designed to provide information regarding tenancy matters and to resolve disputes between landlords and tenants who have entered into residential tenancy agreements.

The Role of the Rental Office

- ### A Provider of Information to Landlords and Tenants

  The Rental Office is a convenient place for landlords and tenants to obtain information regarding their rights and obligations under the *Residential Tenancies Act*. Many landlord-tenant problems are solved simply by providing landlords and tenants with information concerning their respective rights and responsibilities. Many tenants and a surprising number of landlords are unaware of the legislation that governs their relationship. The provision of information is probably the single most important function of the office, often serving to eliminate conflict and problems before they start.

  The Rental Office maintains a toll-free telephone number which can be used anywhere in Canada. We receive numerous calls each day seeking information concerning rights and obligations of landlords and tenants and the process for filing applications and resolving disputes.

  The Rental Office also provides written information, including a simple to read booklet outlining the major aspects of the *Residential Tenancies Act*, short fact sheets on selected topics and numerous standard forms, including a tenancy agreement. Like the day-to-day inquiries, the written material helps both landlords and tenants acquire an understanding of mutual rights and responsibilities to help to solve problems before they start.

  The Department of Justice maintains a website for the Rental Office that contains all of the written material as well as a link to the legislation and a searchable database of Rental Officer decisions.

  The Rental Officer is also available to make presentations or participate in forums with tenants, property managers or others involved in residential tenancy matters. We provide these services free of charge in the belief that informed and knowledgeable landlords and tenants are more likely to respect the rights and obligations of each other and less likely to end up in a conflict situation.

- **Dispute Resolution**

  Landlords and tenants are encouraged to attempt to resolve disputes themselves. Often, the information provided to the parties regarding their legal rights and obligations helps the parties resolve the dispute but a dispute resolution process is available to both landlords and tenants. The dispute resolution process can be initiated by a landlord or tenant by filing an Application to a Rental Officer.

  On the filing of an application, the Rental Officer may investigate to determine the facts related to the dispute. Applications involving the physical condition of premises are often best understood through an inspection of the unit. Similarly, applications involving third parties, such as utility suppliers are often investigated.

  Occasionally, the investigation leads to a resolution of the dispute by agreement. For example, a tenant may file an application when a security deposit has not been returned and no statement of the deposit has been provided to the tenant. A brief investigation into the matter may reveal that the landlord was unaware of the new address of the former tenant or of his responsibility to produce a statement. The production of the statement may lead to agreement between the parties and the withdrawal of the application.

  Occasionally, the parties will agree to a mediated solution to the problem without recourse to a formal hearing or the issuance of an order. If the parties wish to try to settle the issue by mediation, the Rental Officer will assist them in the resolution of the matter and the preparation of a mediated agreement.

  Often, landlords and tenants can not agree or, more often, one of the parties wants a decision which can be enforced, should the other party fail to abide by that decision. In these cases, the Rental Officer will hold a hearing and, after hearing the evidence and testimony of both parties, render a decision. The Rental Officer will issue a written order along with reasons for the decision. Orders by a Rental Officer may be filed in the Territorial Court and are deemed to be an order of that court when filed. Most disputes are settled in this manner as the majority of disputes concern non-payment of rent and an enforceable decision is desired by the applicant.

- **Enforcement of the Act**

  The contravention of certain sections of the *Residential Tenancies Act* and certain actions described in the Act are offences. On summary conviction, offenders are liable to a fine. Few choose to ignore the law when informed but occasionally the Rental Officer is required to investigate allegations of contraventions which could lead to charges being laid.

Rental Office Activities - 2007

Mr. Hal Logsdon served as Rental Officer throughout the year. Mr. Logsdon's appointment was renewed for a three year term on April 1, 2007. Ms. Kim Powless continued to serve as the Rental Office Administrator during the year.

Our printed information material and website remained much the same throughout the year. Because of the anticipated changes to the *Residential Tenancies Act*, we did not develop additional public information. The bill to amend the legislation was tabled as an information item during the 15th Legislative Assembly but did not receive notice or first reading prior to the election. Notice of the bill to amend the *Residential Tenancies Act* will be given during the 16th Assembly. The Rental Officer has assisted the Department of Justice on several occasions to outline details of the proposed changes to the Act.

The Rental Officer participated in a workshop on the *Residential Tenancies Act* in Hay River which was attended by NWT Housing Corporation staff, Hay River Housing Authority Staff and a private landlord.

The Rental Officer attended a conference on residential tenancy matters in St. Johns Newfoundland in July which was attended by other adjudicators and administrators from other jurisdictions.

Trends and Issues [1]

Canada Mortgage and Housing Corporation published their annual rental market report for Yellowknife based on a market survey done in October, 2007. The lack of production of new rental stock has resulted in the reduction of the Yellowknife apartment vacancy rate from 3.3% in 2006 to 1.2% in October, 2007. This drop represents the first decline in vacancy rates in Yellowknife in more than five years. Despite the drop in vacancy rates, the average rental rates remained steady, the average rental increase rising by only four dollars to $1269. The average Yellowknife two-bedroom rental rate in 2007 was $1364.

Yellowknife vacancy rates are now considerably lower than the national average of 2.6% but not as low as some other urban centres such as Kelowna (0.0%) or Victoria (0.5%). The average rents in Yellowknife remain considerably higher than most other urban centres. Calgary ($1089), Vancouver ($1084), and Toronto ($1061) have the highest 2-bedroom rents among major urban centres.

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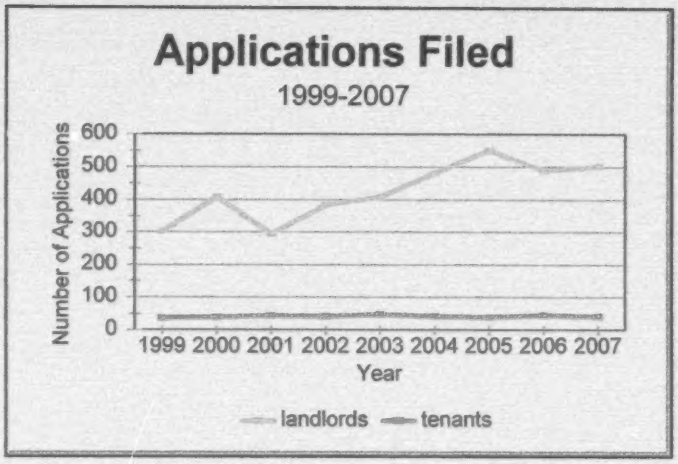
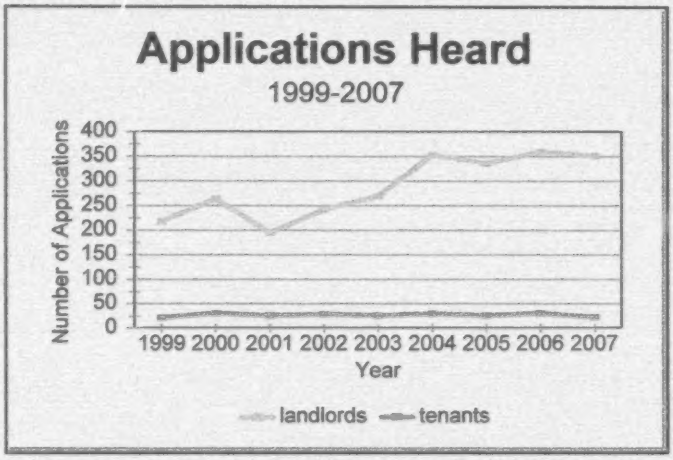
[1] Yellowknife and national market data from Canada Mortgage and Housing Corporation, Rental Market Report, Yellowknife Highlights, Fall 2007.

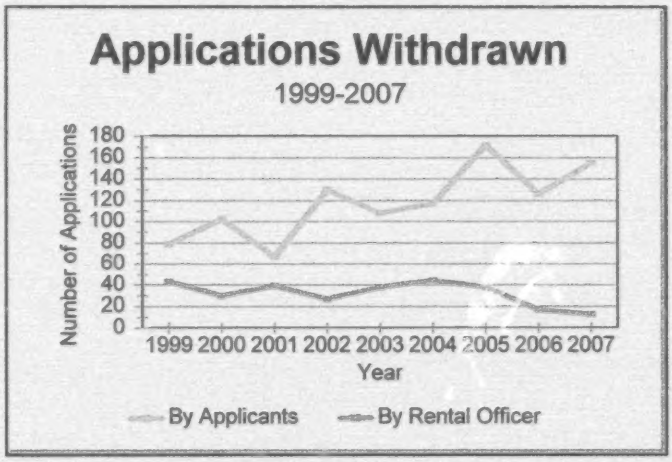
Compared to 2006, the total number of applications filed increased marginally to 544. Landlords continue to file the majority of applications, making up 92 % of all applications filed in 2007. During the year, 168 applications were withdrawn. Normally applications are withdrawn because the dispute between parties is resolved to the satisfaction of the applicant before a hearing is held or because the applicant fails to serve the application on the respondent.

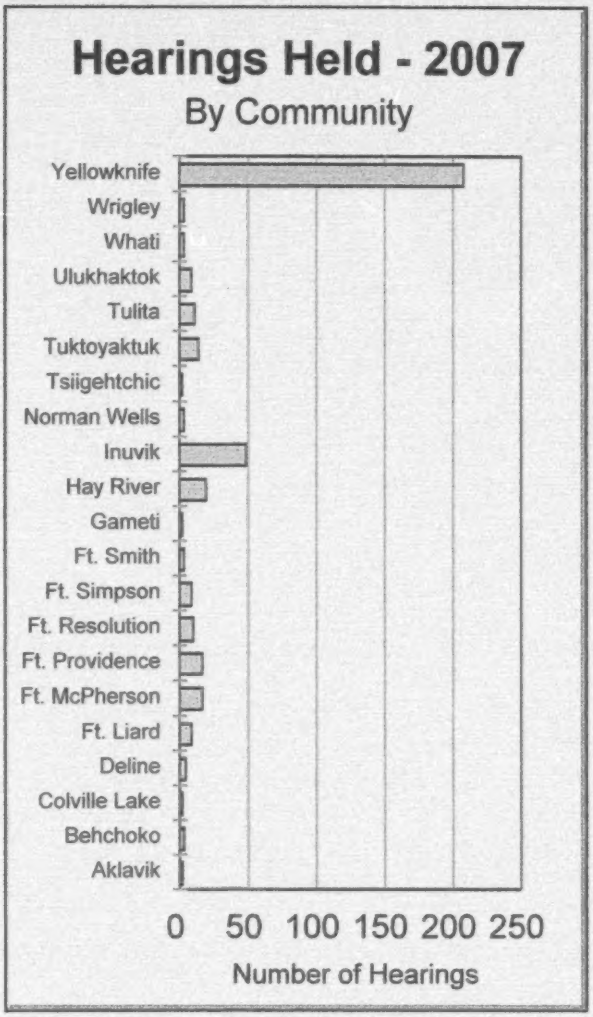
The number of hearings held in 2007 decreased marginally to 374. Of the 374 hearings held across the Northwest Territories in 2007, 94% were based on applications filed by landlords. Only 6% of the hearings were based on tenant applications. Although landlords file the majority of applications, tenants rely on the Rental Office as a source of information and make good use of the toll-free number to make inquiries.

Yellowknife continues to lead all other communities both in terms of applications filed and applications heard. In 2006, Yellowknife hearings made up 61% of the total hearings held. In 2007, that percentage dropped to 55%. Applications from other NWT communities increased in 2007. Applications from Ft. McPherson, Ft. Providence, Fort Resolution and Ft. Simpson and others increased from 2006.









Yellowknife is the only community where regular hearing dates are set in advance, approximately every three weeks. Hearing dates for the remainder of communities are set as required as the number of applications is quite variable. For example, 24 matters were heard in Behchoko in 2006 but only 2 were heard in 2007. No hearings were held in Tuktoyaktuk in 2006 but 13 were heard in 2007.

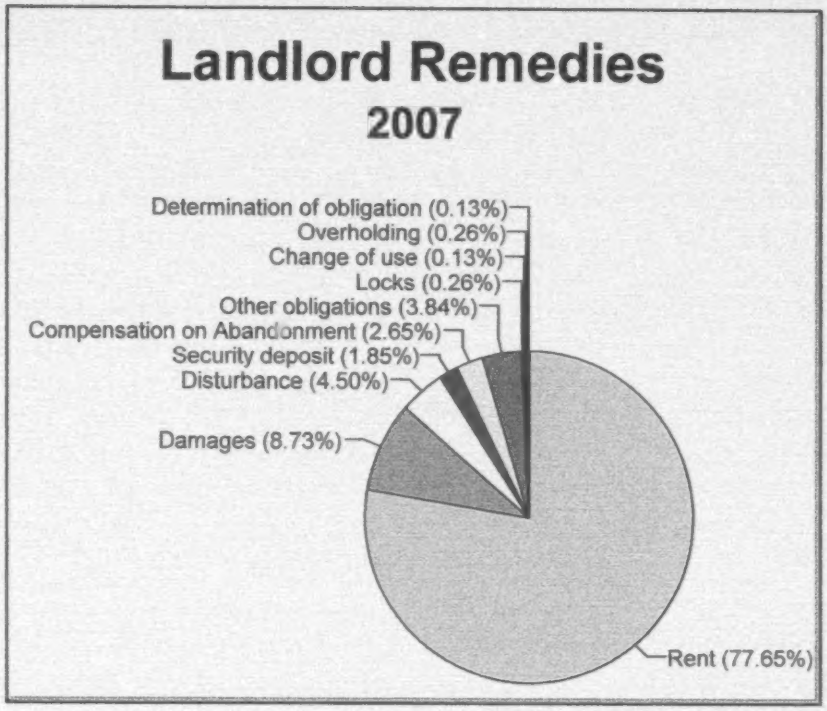
Of the hearings held, 255 were conducted in person and 119 were conducted by telephone. Telephone hearings continue to be an effective way to hear matters in a timely and cost-effective manner, particularly when only one or two applications are received from a community outside Yellowknife or when the parties reside in different communities. We did not hear any matters by video-conference in 2007. The locations where video facilities exist are very limited and few GNWT personnel have been adequately trained to use the equipment.

The majority of applications are filed by landlords due to non-payment of rent. Most of these are uncontested by tenants. In cases where arrears are high, mediation often proves useful, permitting the landlord and tenant to work out, with the assistance of the Rental Officer, a scheduled repayment of the debt. However, most landlords prefer a consent order reflecting an agreed upon payment schedule rather than a mediated agreement as mediated agreements may not be enforced in the Courts.

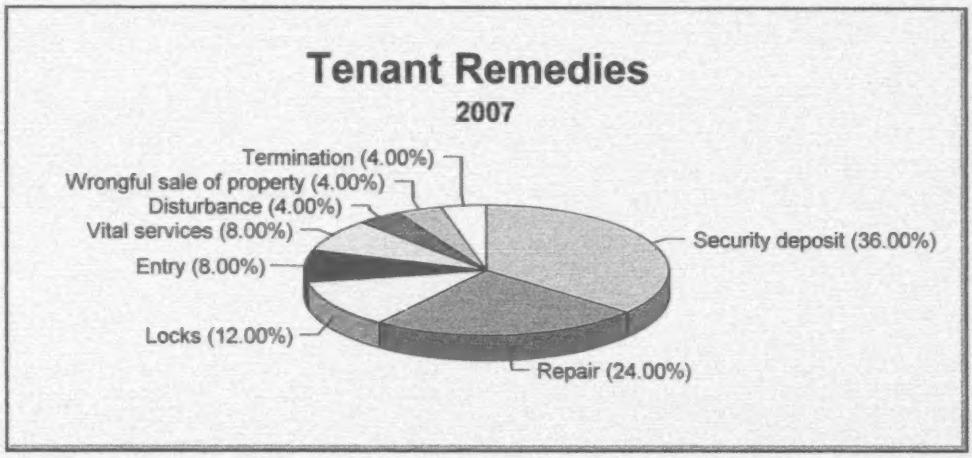
The remedies provided to landlords in 2007 were similar to those granted in the previous year. Not surprisingly, over 77% of the orders provided to landlords related to rent.

The two primary remedies provided to tenants continued to be the return of security deposits and orders related to failure to maintain the premises in a good state of repair.

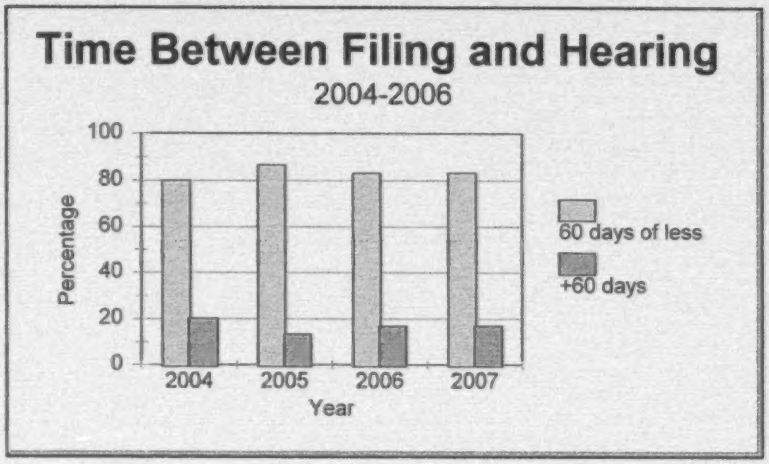
In 2007, 319 orders were issued which required monetary payment to be paid by one party to the other. The number of such orders decreased marginally from 2006 levels but the total monetary value of the orders increased to $1.1M. The average value of these orders also increased to $3455.



The percentage of terminations remained much the same in 2007. It should be noted however that many of these termination orders were conditional in nature and did not necessarily result in the termination of the tenancy agreement. In many cases involving rent, the order issued will terminate the tenancy agreement unless the tenant pays the rent arrears by a particular date. We have no way of tracking how many conditional orders for termination actually result in a termination of the tenancy agreement but we suspect that most are satisfied and the tenancy continues.



The length of time it takes from when an application is filed to the time it is heard depends on a number of factors, some of which are outside the control of the Rental Office. Users of the services occasionally complain about the length of time it takes to resolve a dispute and we continue to do what we can to make the administration of the process move as rapidly as possible.



We continued to hear 80% or more of all applications within 60 days of filing. 35.6% of all applications were heard within 30 days.

It has been our experience that where the filed application is not delayed by mail, the applicant serves the respondent quickly, the hearing notices are deliverable and the parties do not seek any postponements, an application will be heard within 4-6 weeks of filing. However any or all of the above factors can delay the process considerably, and occasionally do.

In April, 2006 the subsidy arrangement for the Public Housing Program was changed, transferring the responsibility for rent calculation from the landlord (the Local Housing Organization) to the Department of Education, Culture and Employment. Prior to April 1, 2006 Public Housing tenants were obligated to report the household income to the landlord and the landlord was obligated to calculate a rent based on the household income in accordance with the Public Housing rent scale. The new Public Housing tenancy agreement now obligates the tenant to report the household income to the Department of Education, Culture and Employment who sets the tenant's rent.

This change continues to create problems for some public housing landlords seeking remedies for non-payment of rent through applications to a rental officer. The public housing landlord is often unable to state at the hearing whether the tenant has complied with the obligation to report the household income in accordance with the tenancy agreement or if the tenant is in breach of that obligation. There also appears to be some incongruity between the tenancy agreement and the client eligibility requirements of the program operated by Education, Culture and Employment. The result of these problems is often the failure of the landlord to prove their allegations and enforce their right to collect the full amount of rent owing.

Statistics for the Year
January 1, 2007 to December 31, 2007

Applications to a Rental Officer
1999-2007

	1999	2000	2001	2002	2003	2004	2005	2006	2007
Applications Filed	339	448	339	426	457	523	591	534	544
By Landlords	302	409	295	384	409	481	551	489	502
By Tenants	37	39	44	42	48	42	40	45	42
Applications Heard	240	295	221	271	296	383	362	390	374
From Landlords	218	264	195	242	270	353	336	359	351
From Tenants	22	31	26	29	26	30	26	31	23
Applications Withdrawn	122	132	106	157	146	161	210	143	168
By Applicants	79	102	67	130	108	117	172	126	155
By Rental Officer	43	30	39	27	38	44	38	17	13

Hearings Held, by Community and Type
2007

Community	in person	by phone	TOTAL
Aklavik		1	1
Behchoko	2		2
Colville Lake		1	1
Deline		3	3
Fort Liard	6	1	7
Fort McPherson		15	15
Fort Providence		15	15
Fort Resolution		9	9
Fort Simpson		8	8
Fort Smith		2	2
Gameti		1	1
Hay River	5	13	18
Inuvik	33	15	48
Norman Wells		2	2
Tsiigehtchic		1	1
Tuktoyaktuk		13	13
Tulita		10	10
Ulukhaktok		7	7
Whati	2		2
Wrigley		2	2
Yellowknife	207		207
TOTAL	255	119	374

Remedies Ordered After a Hearing
2006-2007

Landlords	2006	%	2007	%
Rent (Section 41)	550	79%	587	78%
Tenant Damages (Section 42)	62	9%	66	9%
Disturbance (Section 43)	25	4%	34	4%
Other Obligations of Tenant (Section 45)	34	5%	29	4%
Security Deposit (Sections 14 & 18)	4	0.6%	14	2%
Loss of Future Rent (Section 62)	15	2%	20	3%
Termination for Sale or Change of Use (Section 58 & 59)	1	0.1%	1	0.1%
Compensation for Overholding (Section 67)	2	0.3%	2	0.3%
Termination of Different Types (Section 57)	0	0%	0	0%
Illegal Activities (Section 46)	1	0.1%	0	0%
Safety Impaired (Section 54)	1	0.1%	0	0%
Refund of rent on sale of premises (Section 58)	0	0%	0	0%
Change of locks (Section 25)	0	0%	2	0.3%
Determination of obligation or rule (Section 12)	0	0%	1	0.1%

Percentages add to more than 100% due to rounding.

Remedies Ordered After a Hearing
2006-2007

Tenants	2006	%	2007	%
Security Deposit (Sections 14 & 18)	11	42%	9	36%
Maintenance (Section 30)	6	23%	6	24%
Disturbance (Section 34)	1	4%	1	4%
Vital Services (Section 33)	2	8%	2	8%
Wrongful sale of Personal Property (Section 66)	6	23%	1	4%
Change of locks (Section 25)	0	0%	3	12%
Entry (Section 25)	0	0%	2	8%
Termination - other types (Section 57)	0	0%	1	4%

Terminations Ordered*
2000-2007

	2000	2001	2002	2003	2004	2005	2006	2007
Requested by Tenant	1	0	1	0	3	2	2	1
Requested by Landlord	104	89	114	115	158	158	147	146
As % of Applications Heard	36%	40%	42%	39%	42%	44%	38%	39%

*includes orders which terminate tenancy agreements only if specific conditions are not met.

Value of Compensation Ordered
2003-2007

	2003	2004	2005	2006	2007
Total Orders Granting Monetary Relief	238	328	286	327	319
Total Value of Orders Issued	$487,768	$1,298,310	$1,124,994	$978,587	$1,102,170
Average Value	$2049	$3958	$3934	$2993	$3455

Elapsed Time Between Filing Date and Hearing Date
Applications Heard During Period
2004-2007

	2004	%	2005	%	2006	%	2007	%
0-30 days	133	34.7%	146	40.0%	131	33.6%	133	35.6%
31-60 days	173	45.2%	169	46.7%	193	49.5%	178	47.6%
61-90 days	62	16.2%	35	10.0%	45	11.5%	44	11.7%
91-120 days	7	1.8%	3	0.8%	10	2.6%	10	2.7%
120+ days	8	2.1%	9	2.5%	11	2.8%	9	2.4%